
OLR Bill Analysis

sHB 6481

AN ACT CONCERNING ENFORCEMENT PROTECTION FOR NONCONFORMING STRUCTURES.

SUMMARY:

This bill allows structures built in violation of zoning regulations to be deemed nonconforming under the same circumstances as buildings. This means a structure that (1) violates setback requirements or (2) sits on a lot in violation of minimum lot area requirements is classified as a nonconforming structure if the applicable zoning regulations are not enforced within the first three years of the violation. The bill places the burden of proving that a structure, but not a building, has been nonconforming for three years on the property owner.

The bill allows towns to define “structure” in their zoning regulations. If not defined locally, the bill defines “structure” as any combination of materials, other than a building, that is affixed to land. The definition includes signs, fences, walls, pools, patios, tennis courts, and decks.

EFFECTIVE DATE: October 1, 2013

BACKGROUND

Nonconforming Buildings

CGS § 8-13a does not define “building.” However, several cases have interpreted the term in the context of § 8-13a (e.g., *Wright v. Zoning Board of Appeals*, 22 Conn. L. Rptr. 76 (1998) (holding a fenced-in generator on a concrete slab is not a building under § 8-13a); *Kershaw v. Danbury Zoning Board of Appeals*, 21 Conn. L. Rptr. 43 (1998) (holding an open deck is not a building under § 8-13a)).

Under case law, the burden of proving a building was nonconforming for the statutory period is on the property owner

(*Friedson v. Westport*, 181 Conn. 230, 234-35 (1980)).

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/13/2013)